

## **REMARKS**

### **Status of the Claims.**

Claims 37, 38, and 80 are pending with entry of this amendment, claims 1-36, 39-79, and 81-82 being canceled. Claims 37, 38 and 80 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*e.g.*, page 11, last paragraph, in the claims as originally filed, *etc.*).

### **Election/Restriction.**

Applicants note that claims 33-36 were withdrawn from consideration as allegedly being directed to an invention that is independent or distinct from the invention originally claimed. Accordingly, claims 33-36 are canceled with entry of this amendment.

Pursuant to the restriction requirement made final, Applicants cancel claims 1-36. Please note, however, that Applicants reserve the right to file subsequent applications claiming the canceled subject matter and the claim cancellations should not be construed as abandonment or agreement with the Examiner's position in the Office Action.

### **Claim objections.**

Claims 80-81 were objected to for allegedly being drawn to non-elected products. Claim 80 is amended so that it depends from pending claim 38 and is clearly drawn to elected subject matter. Claim 81 is canceled with entry of this amendment thereby obviating this objection.

### **35 U.S.C. §112, second paragraph.**

Claims 37-38 and 80-82 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite because they are drawn to a nucleic acid that hybridizes with SEQ ID NO:33, but this is an amino acid sequence. Claim 37 is amended herein to recite ". . . a nucleic acid that specifically hybridizes with a nucleic acid encoding the polypeptide of SEQ ID NO:33 . . ." thereby obviating this rejection.

Claims 80 and 81 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite because claim 35 is drawn to a consensus sequence while claims 80-81 which depend from

claim 35 are drawn to a HY2 bilin reductase and not a consensus sequence. Claims 35 and 81 are canceled herein, while claim 80 is amended to depend from claim 38 thereby obviating this rejection.

Claims 80-82 were rejected under 35 U.S.C. §112, second paragraph, because the recitation of the names "hvrccr" or "atrcr" is allegedly insufficient to convey with clarity that which Applicant sees as the invention. Claims 81 and 82 are canceled while claim 80 is amended so that these names are not recited thereby obviating this rejection.

**35 U.S.C. §112, first paragraph.**

Claims 80-81 were rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 80 is amended herein to eliminate the Markush group of sequences, while claim 82 is canceled thereby obviating this rejection.

Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,



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